

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 20, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 20, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Morris K. Dunlap, Vice-Chair; James Barfield; Bud Hentzen; John W. McKay Jr.; Bill Johnson; Elizabeth Bishop; M.S. Mitchell; Frank Garofalo; Bob Hernandez (out @ 3:45); Denise Sherman; Darrell Downing and Harold Warner Jr.; Staff members present were: John Schlegel, Director of Planning, Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

❖ PLANNING COMMISSION ITEMS

1. **Approval of April 22, 2004, and May 6, 2004 meeting minutes.**

MOTION: To pull April 22, 2004 and May 5, 2004 meeting minutes and defer due to a printing problem.

MARNELL moved, **MITCHELL** seconded the motion, and it carried (12-0).

❖ SUBDIVISION ITEMS

Items 2-1 to 2-5 may be taken in one motion unless there are questions or comments.

2. **Consideration of Subdivision Committee recommendations**

- 2-1. **SUB2004-23 – Final Plat – BLUE LAKE ADDITION, located west of West Street, on the north side of MacArthur.**

NOTE: This is a replat of the Big Lake Addition in addition to unplatted land to the south. The south portion of this site is located in the County adjoining Wichita's city limits and annexation is required. A zone change has been approved (ZON 2004-13) from MH, Manufactured Housing and LI, Limited Industrial to SF-5, Single-Family Residential.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita for the south portion of the site.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by City Council, the zone change will need to be approved.
- C. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. As drainage will be directed onto I-235, a letter shall be provided from KDOT indicating their agreement to accept such drainage.**
- F. **Traffic Engineering** requests a petition for contingent traffic improvements to BlueLake (e.g. traffic calming devices).
- G. **Traffic Engineering** requests the Bolin Drive/Sabin intersection be at a right angle and located 150 feet west of the railroad crossing.

The applicant has revised the intersection as requested.
- H. **County Engineering** needs to comment on the need for any improvements to MacArthur. **A City petition is needed for left and right turn bays on MacArthur.**
- I. **Traffic Engineering has requested the submittal of the KDOT/Sedgwick County agreement regarding Bolin Drive.**
- J. The Applicant shall guarantee the paving of the proposed streets including a guarantee for upgrading Bolin Drive and 31st St. South to City standards. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- K. The plat shall denote the full width of the right-of-way for 31st St. South.
- L. The Subdivision Regulations do not permit reserve strips controlling access to streets. Calvert should be relocated five feet

to the south in order to eliminate the Reserve strip. **The Subdivision Committee required a contingent access easement to connect Calvert with the property to the south.**

A contingent street dedication has been platted.

- M. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA - NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- O. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- Q. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- R. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 7-8, Block A. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **A modification has been granted.**
- S. **GIS** needs to comment on the plat's street names. **Bluecake Ct needs revised to Bluelake Ct.**
- T. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- U. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- V. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- W. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Y. To receive mail delivery without delay, and to avoid unnecessary expenses, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- DD. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**

EE. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MITCHELL I would like to question Item F, which states Traffic Engineering requests a petition for contingent traffic improvement to BlueLake (e.g. traffic calming devices). I have been through the Subdivision Regulations and I don't find anything that permits contingent improvements to street design. It would appear to me that if a street design were approved by the Subdivision Committee it ought not to have conditions that might later require a petition to go in and do something after the paving is done. I object to the Item F in the approval.

BISHOP Did Mr. Mitchell discuss this with staff so we could have Traffic Engineering here before this time? That would be helpful.

STRAHL No, I didn't know this was a problem. Traffic Engineering requested Item F due to the long straightaway of that internal street, and felt if need be he would like to have that petition for calming devices in the future.

GAROFALO What are traffic calming devices, is that a traffic signal?

STRAHL No that would be speed bumps, speed humps, etc.

BARFIELD Is the applicant aware of this Item or Condition, and is he opposed and if not, we should move on. Do you approve of this condition?

PHIL MEYER, Baughman Company, We did agree to this. What Traffic Engineering is concerned about is the long straightaway that occurs on this plat, and wanted us to redesign the plat, and we were arguing that there is nothing going to hook up to the north, or the west. His traffic calming devices is a petition that if he runs into a problem later with neighbors calling and complaining that speeds are out of control, or too much traffic, he can go out there and do a median, speed hump, but those types of items are what they use. Did we want to agree to this? Grudgingly ... we didn't want the condition, and did not want to put up a financial petition that sits there forever, and the lots would end up paying for it themselves. The Homeowners Association would have to vote and approve the petitions.

BARFIELD You didn't raise this as an issue at Subdivision?

MEYER That is correct. Scott Logan and I worked it out on our own.

BISHOP Without having Scott here I think you explained it well. What the goal is to have a subdivision that has the flexibility to deal with future problems should they arise.

MITCHELL My question is about Item F, where you have requested a petition for contingent traffic improvements to BlueLake Street. My objection is I don't find anything in the Subdivision Regulations to provide for that kind of future design imposition on the applicant or subdivision. If the subdivision were designed as you think it should be now, I wouldn't think there would be any need for this kind of additional requirement for petition.

SCOTT LOGAN, Traffic Engineering This is a street that has housing abutting a very, very long street. We understand the difficulties in getting cross connections and getting sorts of things to slow traffic down. In the future, there may not be a problem with traffic along this long street. It is 8-10 blocks long, and our experience is we have had problems on streets that are designed this way. Particularly because they are fronting that street, and we will get calls because of the traffic volume, about 1,000-1,500 on this street, because there is only one way these people can get in and out and some of them through this subdivision. In understanding the layout of this, and trying to address the problems that might come up, we would like to see a contingent traffic device if there is a problem on that street.

MARNELL Can you indicate on the plat where you think the problem would occur.

LOGAN Down on MacArthur.

MARNELL Is it not shown on the plat that is up there?

LOGAN Typically, when we work with neighborhoods, we try and decide what devices are the best.

BISHOP This plat is planned for 272 homes in this subdivision, and they are all going to have access via that one road in and out?

LOGAN It would be about 2,700 trips per day.

DUNLAP Do you have a method of fixing it if a problem comes up?

LOGAN We typically work with the neighborhoods, and we don't have a particular device in mind. There are traffic circles, chokers, or medians.

DUNLAP I am not talking about devices. I am talking about the ability of the City to help the problem should one develop later even if it is not in here. You have a method of doing that I think.

LOGAN What we do if there is a Homeowners Association, we work with them and funding is typically the problem because it is \$2-4000 to do something. Because this is a long stretch of road there is a higher potential for a problem.

DUNLAP Would the cost of a calming device be spread over the 272 lots?

LOGAN Yes, it would be done by petitions.

MCKAY Presently, don't you have a financial mechanism? Let's say this was a Subdivision that was already done and people started complaining that people and cars are going too fast up and down the street. Couldn't you at that point and time do a petition to get it done and be spread rather than obligate somebody for infinity?

LOGAN Yes, if there is a Homeowners Association.

MCKAY It wouldn't even have to be an Association.

LOGAN True.

MCKAY The City has the right, through a proper petitioning procedure, to go back and assess the people for any needed things on a public street.

LOGAN That is one mechanism, true.

BISHOP That kind of a petition process would require how many of the people in that Association to agree, and if there is a prior petition that makes the process easier, correct? Otherwise these folks - all 272 of them - have to come together and reach some sort of consensus on whether or not to assess them in the future?

LOGAN It would be more than half, more than 50 percent, and typically there is a problem when you try to do that.

MCKAY You say to get a petition is 51 percent but you are not going to go in there to impose any type of assessment against these people unless they agree to pay it even though you got the contingent dedication. Is that correct? In other words, if 20 percent of these people complained you are not going to go in there and do all these mechanisms and assess everybody else regardless of what vehicle you presently have in place, past, present or future.

LOGAN Probably true. We would work with a neighborhood group that was comprised of representatives in that area.

MITCHELL Scott, that is not true that you would have to do that. You can go in at anytime with a valid petition and design and install some device at this location that didn't exceed the cost of what you put in that contingent petition, correct? You don't have to go to the neighborhood in order to exercise your petition.

LOGAN In this case we would work with the neighborhood.

MITCHELL My concern is that we are adding things that we don't know whether there is a need. If this is the only one that ever occurs, that may not be too harmful. But if this process of not following the design in the Subdivision Regulations, and saying well we may have to add something in the future, there is no certainty in the cost of doing those subdivisions.

BISHOP It seems like an awfully long collector street with a large number of homes on it, and it is the only way in and the only way out?

STRAHL This street right here, Bolin Drive, will connect to the east.

BISHOP With the long street that goes south to MacArthur Road, is there anything in the Subdivision Regulations that reflect on that kind of design?

STRAHL Just for a cul-de-sac, not for a connecting street like this.

MARNELL The problem that I have with this is that it is not provided for in the Subdivision Regulations, and if in fact it is something that needs to be included in the regulations then that is where it should go and go through the process to get there. But to just to make up the rules as we go doesn't seem to fit right to me.

STRAHL It is not unusual for us to ask for contingent traffic improvements in the future, whether it be a signal or calming devices.

MARNELL We have had that discussion here before to about how arbitrary that whole process is, and that it needs to be formalized and administered uniformly, not on an ad-hoc basis.

MILLER This is an unusual design. It is not a desirable layout. I think what staff was trying to do was provide as much flexibility as we could in trying to meet what they were trying to do with this particular piece of ground. Traffic Engineering thought that given the long raceway appearance that you have here, that if they could get some sort of guarantee that would address the potential for there to be additional improvements that they don't know about today, then they would do that.

MITCHELL I think the design should have included whatever devices are seen to have been needed now, and if they are not needed in the future they don't have to built, but to put a contingency on that would leave that location at any number of places in that subdivision that doesn't seem to me to be the proper design.

MOTION: To approve subject to Subdivision Committees recommendations with the exception of Item F.

MITCHELL moved, **DUNLAP** seconded the motion.

SUBSTITUTE MOTION: To approve Subdivision Committee recommendation and include Item F.

BISHOP moved, **BARFIELD** seconded the motion.

BISHOP I believe that staff has bent over backwards to accommodate a difficult and problematic design, it is adding a bit of flexibility that may or may not be required.

SUBSTITUTE MOTION: Carried 8-5. (**HENTZEN, DUNLAP, MARNELL, MCKAY, and MITCHELL** opposed)

2-2. **SUB2004-33 – Final Plat – HAWTHORNE THIRD ADDITION, located on the north side of 21st Street and east of 127th Street East.**

NOTE: This is a replat of a portion of the Hawthorne Addition and Hawthorn Second Addition in addition to unplatted land to the east. The lot sizes have been increased resulting in fewer lots.

STAFF COMMENTS:

- A. Petitions have been provided with Hawthorne Addition and Hawthorne 2nd Addition for sewer, water and paving improvements. **City Engineering has requested new petitions. Limitations on sewer connections exist until improvements are made.**
- B. **Debt Management** has required the submission of a respread agreement for special assessments due to the lot reconfiguration.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
- E. The paving guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets in addition to sidewalks on both sides of Williamsgate which functions as a collector. **The applicant has provided an alternate sidewalk plan with one side of the Williamsgate sidewalk located within the reserve. This sidewalk shall be included within the paving petition. The plat's text shall designate the sidewalk in Reserve K for "public access".**
- F. The parking easements need to be labeled. Their reference in the plat's text as being "hereby granted to the public" needs to be deleted.
- G. Enlargements of various "Details" indicated on the plat need to be included.
- H. Williamsgate Ct has been platted as a 32-ft narrow local residential street. A 15-ft street drainage and utility easement is needed along the street.
- I. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- L. For those reserves being platted for drainage or sidewalk purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage and sidewalk reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-ft and 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. The Applicant has platted various 20-ft building setbacks which represent an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family Residential District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **A modification has been approved.**
- O. **GIS** needs to comment on the plat's street names. **The street stub extending to the east - Camden Chase - needs to be**

labeled.

- P. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The legal description needs to be revised to clarify "Part of Williamsgate, Camden Chase, and Mainsgate".
- S. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- BB. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

2-3. SUB2004-56 – One-Step Final Plat – WINDRIDGE COURT ADDITION, on the east side of Ridge Road and south of MacArthur Road.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan. Since this plat is located in an area where public services are planned to be available for higher density development, "lot bundling" has been provided so the six building sites may be readily converted to 12 urban-scale lots without replatting.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. **The applicant will be providing a restrictive covenant tying pairs of lots together and limiting each building site to one dwelling unit until sanitary sewer services become available.**
- B. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. The ingress/egress easement should specify the beneficiaries to the south and east.
- F. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed along Windridge Court from Ridge Road.
- G. **County Engineering** needs to comment on the access controls. The plat denotes one opening along the south line of the plat. **The access controls are approved.**
- H. **County Engineering** has requested a 35-ft half street contingent dedication of right-of-way along the south property line.
- I. Per **Sedgwick County Fire Department**, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- J. A Block shall be designated on the face of the plat as referenced in the plat's text.
- K. The applicant shall guarantee the paving of proposed street to the suburban street pavement standard.
- L. The Applicant shall submit a restrictive covenant tying pairs of lots together within each building site. Each building site shall be limited to one dwelling unit until the property is annexed by the City of Wichita and municipal water and sanitary sewer services become available.
- M. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- N. The Applicant is advised that if platted, the building setbacks along Ridge Road must be 25 feet and the building setbacks along Windridge Court must be 30 feet to conform with the Zoning setback standard for County roads. **The Subdivision Committee has approved a modification of the required setback.**
- O. Lots 5, 6, 7 and 8 do not conform with the 200-ft lot width standard, which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- P. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 1-5 and Lots 8-12. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- Q. **GIS** needs to comment on the plat's street names. **Windridge Ct needs revised to Ridge Ct or another name (with a Cir suffix).**
- R. According to the platting binder, blanket pipeline easements have been granted over this plat. The applicant shall either obtain a release of the easements or provide proof that the easements have been confined. If confined, any portion of the easements if on this plat shall be shown and the pipeline's name and recording information shown.
- S. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the County.
- T. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- U. The recording information for all pipeline easements shall be indicated on the face of the plat.
- V. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- W. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- X. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Y. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- Z. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- AA. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- BB. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- CC. Perimeter closure computations shall be submitted with the final plat tracing.
- DD. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- EE. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- FF. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

2-4. SUB2004-55 – One-Step Final Plat – THE WATERFRONT FOURTH ADDITION, located north of 13th Street North and east of Webb Road.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City water and sanitary sewer services are available to serve the site. City Engineering needs to comment on the need for other guarantees or easements. No guarantees are needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. An off-site drainage agreement is needed.
- D. The pipeline easement needs to be located.
- E. The railroad name needs to be corrected.
- F. The final plat needs ties to either section corners or an existing platted lot corners.
- G. If any drainage will be directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their agreement to accept such drainage.
- H. The right-of-way widths needs to be denoted for Waterfront Pky.
- I. The Park and Pathways Plan indicates a greenway along the north line of the plat. A contingent public access easement (20-ft minimum width) should be platted along the west line of the plat to provide for a connection to this greenway.
- J. A Block shall be denoted on the face of the plat and referenced in the plat's text.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City of Wichita.
- M. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline

agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.

- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested a dditional easements.**
- Y. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

BARFIELD How long has the process been in place to change the rail bank?

SCHLEGEL The City staff was directed in 2002 to move forward to the rail-banking proposal by the City Council, and we have been in active negotiations with the railroad since then. Right now our deadline is October of this year to come to agreement with them. At that point the Board will make a decision whether they want to continue to move forward with the rail banking.

BARFIELD Certainly the applicant was aware at the time, that this was a potential for rail banking?

SCHLEGEL I can't speak to that.

HENTZEN Who owns that property now?

SCHLEGEL The ownership is probably divided among a number of different owners. The railroad still controls the right-of-way, and under the rail-banking proposal what that would do is the City would assume the control of the right-of-way for purposes of developing a trail from the railroad. There is still ownership underneath that right-of-way, and that will vary along the length of the rail line. On this stretch I don't really know because we haven't done the research for who would be the underlying owner.

HENTZEN What we are attempting to do here is insist that an owner of some property nearby give 20 foot on something that maybe it will happen and maybe it won't. What can we base our decisions on?

SCHLEGEL It is something that is in the City's adopted Park and Pathways Plan, and it has been a routine request by staff to place these conditions on approval of plats adjacent to identified greenways in that particular plan. The applicant in this case doesn't want to grant that easement so they are appealing it to you today.

BARFIELD For the benefit of the members that are not on the Subdivision Committee, this 20-foot was arrived at as a compromise. Staff had originally requested a 40-foot easement. I made the motion at Subdivision Committee to change that to 20 feet. Rail banking has been underway for a longtime.

MITCHELL We had an opportunity at Savanna at Castle Rock, and there was no dedication that was requested that I could find on that subdivision. Turkey Creek was a little bit different but would have lead from a subdivision plat to a future abandoned railroad right-of-way. On the previous vacation of a utility easement, staff requested for Waterfront an access easement that was not approved. So, I am not sure where the statement that this has been a consistent position by the Planning Commission. I don't agree with that because we have not required public access easements to the railroad rights-of-way on the basis that they may become trails.

STRAHL It has been a consistent request by staff, maybe not approved by Subdivision or MAPC.

BISHOP A number of the plats that Mr. Mitchell mentioned I believe pedestrian access has been mentioned. I think the difference now is two-fold. The hike and bike Path is further down the line of becoming a reality.

MARNELL Please hold those comments.

BISHOP I would be happy to do that if you would ask everybody else to do the same.

MARNELL Everybody else does the same.

DUNLAP How wide is the railroad piece of property today?

SCHLEGEL I believe it is 100 feet wide.

DUNLAP Did we request an easement on the properties on the north side of the railroad?

STRAHL I don't know.

MILLER The one that I do remember was Reed's Cove. Staff had asked but it was not approved by MAPC, but we have tried to be consistent along the railroad corridor ever since we have known that the potential was there for it to be converted to Rails-to-Trails.

DUNLAP Are we imposing this on one property owners and not on the owners, and the answer is no?

MILLER We ask, MAPC does what they want and think is right.

GAROFALO I would like to hear about this compromise that Mr. Barfield was talking about.

STRAHL We typically ask for a 40-foot public access easement when they have been needed in the past. Since there was some disagreement from the applicant last week, 20-foot was reached as a compromise.

GAROFALO Was the applicant in agreement with the 20-foot?

STRAHL No, the applicant was not in agreement with the 20-foot.

HERNANDEZ Assuming that there is some kind of negotiations with the railroad to buy the property, this bike and pedestrian trail, would it actually go across Webb Road and 13th Street?

SCHLEGEL This is about at the 1/2 section line.

HERNANDEZ This bike and pedestrian trail would go across Webb Road?

SCHLEGEL Correct.

HERNANDEZ Would they build an overpass?

SCHLEGEL No, it would have to be at grade crossing.

HERNANDEZ Isn't that a busy thoroughfare there?

SCHLEGEL Yes, pretty busy.

HENTZEN How many at grade crossing that you are going to have to face out there?

SCHLEGEL This is an 11 mile stretch and every section line there is an arterial road, so about 10-12.

HENTZEN That is what I was thinking, that concerns me if you have bikers stop at every busy corner.

GENE RATH, MKEC The compromise was on the part of the Subdivision Committee members and not something the applicant supported. The force main groundwater pumping line that runs along this same quarter, the plan is to probably relocate that again within 6-12 months as development continues in this area.

STEVE CLARK, P O Box 21080, Wichita, KS 67208 We are opposed to this for security reasons along the back of the property. This property is being sold to a developer that will develop high-end single story office buildings and is very concerned about the security issues of the public coming across the property. The public does have access to our property just a few 100 feet to the west coming down Webb Road and access to Waterfront Parkway, so if they want to get on the property it is not a problem.

The line that they have on this easement has a lot of trees on it and we are concerned, because we have gone to great length out there to try and preserve as many trees that we can. The sidewalk is on the south side of Waterfront Parkway and not the north, so even if a trail did come through there I don't know where it would go.

We actually, in this 165-acre development, had considered doing a trail on the property ourselves early on thinking it would be a nice feature for the property, but we abandoned the idea because of security concerns.

BISHOP Is there no way that you can consider the hike and bike trail that goes past this commercial property as an amenity that design wise can be taken advantage of?

CLARK I know that is the way it is sold but we have more concerns about the security issues. You may know about George Laham's home, it was broken into and the intruder came down the track and into their subdivision through that track. So at some point in time if they do have a Rails-To-Trails back there, we will probably fence off that entire property back there.

BISHOP The reason for the recommendation along the west line is that there will be... [TAPE CHANGE]...my question is even if there is a tree line along there, it is not that difficult to design a hike or bike trail that goes through trees. It is not one that you will want to get a lot of speed on, but it is possible to do.

CLARK There is no compromise on our part to do this, in allowing 20-feet as opposed 40-feet. We have always been adamantly opposed to this.

BISHOP Why a sidewalk only along the south side of the street?

CLARK The sidewalk is wider because we wanted people to be able to walk around the property and around the lake. We have a lot of berms out there as well, so it is more difficult to put sidewalks in anyway.

BISHOP So the sidewalk is designed for strolling rather than going from place to place.

BARFIELD This is going to be sold so someone can develop commercial property?

CLARK Offices.

BARFIELD So where does the security problem come in?

CLARK I think that there is a real concern that whatever type of development it will be if public access along too many points are allowed that someone can come in there. Trash, security issues, these people don't want the access across their property. We were told that the City can ask for this but there is not precedent for imposing this upon property owners for this type of easement.

GAROFALO You mentioned that if a trail were put in there you would put up a wall of a fence?

CLARK Yes, along the north property line.

GAROFALO Where would that be if this easement were given? Where do you think the fence or wall would be in relation to that?

CLARK Probably east – west along our property line.

GAROFALO If the easement was given at 20 feet, how much more property would you have there to build your fence or wall or whatever?

CLARK A fence along the north property line ... it would block off any easement.

GAROFALO So you are saying if the easement was given you wouldn't have room for it?

MARNELL The easement request is on the west side.

MOTION: To approve the recommendation of the Subdivision Committee.

BISHOP moved, **BARFIELD** seconded the motion.

SUBSTITUTE MOTION: To accept the application but omit required dedication or easement Item I.

DUNLAP moved, **MCKAY** seconded the motion.

DOWNING In my opinion, whether you are for or against the Rails-to-Trails, if you only provide access at the major intersection, I think we are setting that project up for failure. I think we are going to need access other than at the major intersections.

MCKAY Along this supposed Rails-to-Trails from Webb Road west clear to Woodlawn is nothing but residential. I don't know if I would want to live along there if I had to give a 20 or 10 or three-foot easement for public access to come close to my property. I own property where there is a bike trail along the creek between Woodlawn and Harry Street, and it is a golf park, but we agreed to let them put that bike path in there with the understanding that there was going to be a fence there and that was 15 years ago and there still is no fence. We constantly have vandalism. People can drive cars on it. We are taking what is going to be one of the nicer subdivisions, and we are going to say we will open this up in the backside for vandalism and all kinds of things to happen.

BISHOP If we don't create more public access to greenways and park spaces like the proposed hike bike trails ... we do too much design work and planning that seems to be focused on parking lots, and the assumptions that people that drive up from the front park in the parking lot and go about their business is okay, and somebody that rides up or walks up is dangerous which is ridiculous.

MITCHELL In line with what Mr. Downing indicated, I don't disagree; it should be something that is voluntary and not something that is confiscated from the property for the public good.

DUNLAP That is one of my major points. We have a development out here that is probably one of the most expansive pieces of property that we are developing around the City, and to simply tell the owner that he has to give us proper access that prevents him from using it when he has an easement which means he has to move a building and he can't get closer to his property line. That is an expensive thing to do for somebody that is developing one of the nicer areas we have ever seen.

BISHOP Look in today's paper and there is a letter from somebody that says why did they design restaurants in the Waterfront Addition that have no view out towards the lakes?

SUBSTITUTE MOTION CARRIED 10-3 (DOWNING, BISHOP and GAROFALO)

2-5. SUB2003-148 – Final Plat – ELK RIDGE ADDITION, located on the northwest corner of 183rd Street West and Maple.

Note: This unplatted site is located in the County within three miles of Wichita's boundary. It is in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence. The applicant requests a zone change from RR, Rural Residential to SF-20, Single-Family Residential. The site is located within the 100-year floodplain. Due to its density, the plat is classified as an urban subdivision.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. Sewer and water services will be provided from Goddard. The Applicant shall submit a letter to that effect.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering needs a drainage plan and a flood study, with minimum pads based on those results. Additional drainage easements may be needed based on the study. A Division of Water Resources permit may be needed.**
- E. Since the subdivision is in a FEMA -regulated floodplain, the floodway certificate needs added.
- F. Access needs to be provided to Reserve A for maintenance from Sheriac.
- G. The temporary and permanent cul-de-sacs should have a 75-ft radius.
- H. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- I. Per **Sedgwick County Fire Department**, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- J. The 70-ft street right-of-way is not permitted to serve lots under 25,000 sq. ft. The applicant will need to increase the size of the lots or in the alternative guarantee the paving of the proposed streets to the 64-ft urban street standard. **The Subdivision Committee has approved a modification to permit the 70-ft streets in conjunction with the suburban street pavement standard.**
- K. The street guarantee shall include the installation of a temporary turnaround at the terminus of Hawkins Lane and Autumn at the plat's north line. The plat's text should indicate that the vacation of the temporary turnarounds area will be effective upon the extension of the streets northward.
- L. It is recommended that Reserve C be extended to the street by access easements or by narrow strips of Reserve between the lots to increase its accessibility and usefulness for all homeowners in the Addition.

A pedestrian access easement has been platted as requested.

- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- P. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (13-0).

❖ **PUBLIC HEARING — ZONING ITEMS**

- 3. **Case No.: ZON2004-04** – Jose Marquez (applicant/owner); Robert Kaplan (agent) Request Zone change from "RR" Rural Residential to "OW" Office Warehouse on property described as;

The East Half of the Southeast Quarter, except road on East and except part deeded for State Highway, Section 10, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located at the northwest corner of Highway 254 and 127th Street East.

BACKGROUND: The application area is located at the northwest corner of Highway 254 and 127th Street East. The applicant was initially seeking "LI" Limited Industrial zoning on 13.72 vacant, unplatted acres that are currently zoned "RR" Rural Residential. However, at the first MAPC hearing, the applicant asked for a deferral in order to talk with concerned neighboring property owners. At the second MAPC meeting the applicant asked for a second deferral to further refine his plan, and reduce his request from "LI" to "OW" Office Warehouse zoning. The applicant met with nearby property owners to discuss his refined "OW" proposal.

Since the mail out for the May 20th MAPC meeting, the applicant has expressed an interest in amending the request further. The applicant is now requesting "GC" General Commercial zoning, subject to a Protective Overlay that would allow outside "vehicle storage yard" (permitted in the "GC", "CBD", "LI" and "GI" districts); and all other uses allowed in the "OW" Office Warehouse district except the following uses are not permitted: private and public recycling station, recycling processing center, reverse vending machine, utility minor, animal care limited and general, automated teller machine, tattooing and piercing facility and asphalt or concrete plant, limited. (See general provision 14 of the Protective Overlay site plan.)

The "OW" proposal depicts two parcels that would allow all uses permitted by right in the "OW" district except: private and public recycling station, recycling processing center, reverse vending machine, utility minor, animal care limited and general, automated teller machine, tattooing and piercing facility and asphalt or concrete plant, limited.

Parcel 1 would allow up to 91,356 square feet of gross floor area on 5.99 acres. Building height would be limited to 16 feet. The drawing depicts a 6,000 square foot assembly building that could be "let for rent" for social events such as weddings, parties, business meetings, etc. Under the Unified Zoning Code the use would be classified as an "auditorium or stadium." The plan shows 169 parking spaces.

Parcel 2 would permit up to 117,847 square feet of gross floor area in a maximum of eight buildings located on 7.73 acres. The drawing depicts an office and warehouse that would be the applicant's office used to model the buildings he constructs. Other uses depicted include: warehousing, outdoor and enclosed storage and mini self-storage. Fifty parking spaces are shown. All of the buildings on Parcel 2 are to be surrounded by wood and block wall fencing.

Outdoor vehicle storage is not permitted in the "OW" district, and would require "GC" General Commercial zoning. Also, outside storage in the "OW" district is limited to an area equal to or less than the square footage of the storage building.

Ten-foot rear and side yard building setbacks and a 20-foot front yard setback are shown. Within the 10-foot setbacks the applicant also proposes to locate a landscape buffer.

Signage, landscaping and noise restrictions are also proposed in the General Provisions of the plan.

The site has frontage along the gravel frontage road located on the north side of Kellogg, and along 127th Street. Five access points to the two parcels are shown. Cross-lot circulation is to be provided; lighting standards are to be limited to 14 feet within 100 feet of abutting residentially zoned property and 20 feet elsewhere; all building exteriors are to share a consistent architectural design, color and texture, except that architectural controls between parcels may be waived, but building design within a parcel shall be consistent.

Surrounding property is zoned "RR" Rural Residential. Properties located to the north, east and south are used for agricultural activities. Property to the west has a residence and an antique shop, and is also farmed.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential, agriculture
SOUTH: "RR" Rural Residential, agriculture
EAST: "RR" Rural Residential, agriculture
WEST: "RR" Rural Residential, residence and agriculture

PUBLIC SERVICES: Public sewer is not available. The plan depicts a lagoon. The site appears to be located within Butler County Rural Water District No. 5's service area. Primary access to the site is provided by Highway 254 a regionally and nationally significant divided four-lane expressway that leads to a two-lane gravel frontage road that abuts the applicant's south property line. 127th Street East, located just east of the site, is also a gravel two-lane road. Parcel 1 by itself could generate 196 to 389 average daily trips if the requested total square footage is developed as self-service warehousing and warehousing.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide depicts this site as appropriate for "rural" uses. The rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Primary industrial location determinants are based upon the characteristics of the individual use, nature of any emissions, the surrounding uses and zoning districts, and the degree of compatibility with adjacent uses. The City of Bel Aire has designated land on the south side of Highway 254, approximately a 1-1/4 miles to the west of the application area as an industrial park.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding property is zoned "RR" Rural Residential. Area uses are primarily agricultural with widely scattered home sites, and a few retail uses, trailer sales and antique shop. The dominant character of the area is clearly agricultural. There is one site east of the site that was recently approved for

vehicle rental and sales however the sites predominate use is propane sales, an agriculturally oriented use. All other non-agricultural uses are associated with rural home sites (trailer sales and the antique shop).

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and could be developed as currently zoned. The site is without public sewer services that could limit the suitability of the site for more intensive uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "OW" zoning would introduce more intensive uses than permitted by surrounding zoning.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: County officials have indicated a desire to study this corridor in order to develop more specific development guidelines for Highway 254. Denial of a request that is so out of character with existing zoning and uses would preserve that opportunity to evaluate all land use, zoning and traffic safety issues related with this corridor. The site is zoned "RR" Rural Residential, and the site could continued to be used for permitted uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not in conformance with adopted plans. The rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Primary industrial location determinants are based upon the characteristics of the individual use, nature of any emissions, the surrounding uses and zoning districts, and the degree of compatibility with adjacent uses.
6. Impact of the proposed development on community facilities: If this request is approved, traffic volumes will increase over current traffic rates. That will increase maintenance requirements. No public sewer services are available causing the site to use on-site facilities such as a lagoon, septic system or alternative on-site system. Rural water district service may be available to the site.

Should the Commission determine that this is an appropriate request, staff recommends approval subject to a Protective Overlay that incorporates the development standards proposed in the applicant's plan, except the following modifications should be made:

- a. The west and north building setbacks should be increased to 35 feet.
- b. Off-site and portable signage shall be prohibited.
- c. In the list of prohibited uses, "asphalt and concrete plant, limited" should be replaced with "asphalt and conc rete plant, general."
- d. Solid screening is required for all outdoor storage or work areas.
- e. Outdoor RV and boat storage is not permitted in the OW district. (Outdoor storage would require "GC" zoning. In the "GC" district any outdoor storage located within 150 feet of a street and abutting residential properties must be screened.)
- f. Access drives should be limited to two drives per parcel.
- g. A revised site plan shall be submitted that replaces references to a CUP with a Protective Overlay

MILLER This is a piece of property that is about 13.3 acres; it is located at the northwest corner of Highway 254 and 127th Street East. It is currently zoned "RR" Rural Residential, and all the property around the application area is also zoned "RR". It is currently in agricultural use. The applicant submitted a site plan that has been revised since the staff report that is at your seat today was mailed. Initially, this request came in as a request for "LI" Limited Industrial, but there was neighborhood opposition, and the applicant agreed to meet with the neighbors. At the second MAPC meeting there was also another deferral, at that point the applicant agreed to drop the request down to "OW" Office Warehouse instead of the "LI" Limited Industrial district. That would be the staff report that you received in the mail, and was aimed at the "OW" Office Warehouse request.

Since that mail out, the applicant is now seeking to revise the request to "GC" General Commercial, and that primarily is based on the fact that "OW" Office Warehouse does not allow the storage of vehicles outside. That takes "GC" General Commercial or better, and once that was discovered and we discussed that, they are amending their application to "GC" General Commercial. They are also providing a Protective Overlay so that, even though it is zoned "GC" General Commercial, the only "GC" General Commercial use they are seeking is "vehicle storage yard," and then all other uses allowed in the "OW" Office Warehouse district except for that same list that they have had all along: public and private recycling station, recycling processing center, reverse vending machine, utility minor, animal care limited and general, automated teller machine, tattooing and piercing facility and asphalt or concrete plant, limited. Those uses would not be allowed, but all other "OW" Office Warehouse uses, plus the vehicle storage yard, would be permitted.

This protest map is based off of the "OW" Office Warehouse request. We received more protest yesterday. There are three additional properties not on this map. Right now it will take the 3/4 vote majority at the County Commission to override the neighborhood protest.

Staff is still recommending denial, however, on the bottom of page 4, there is a suggestion that, should you decide to approve it, that it should be approved for the "OW" Office Warehouse, plus the Protective Overlay conditions that they added. On the site plan, if you looked, I believe they have a 10-foot building setback shown on at least two of the sides, to the west and to the north. We are suggesting those setbacks should be increased to 35 feet. We are also suggesting that off-site and portable signage shall be prohibited. Item C can be deleted. Screening is required for all outdoor storage or work areas, and that is a requirement of the "OW" Office Warehouse district anyway. Item E would basically spell out that the "OW" Office Warehouse district does not allow outside vehicle storage and could be deleted if you approve the "GC" General Commercial Protective Overlay as offered.

MARNELL So just Items A & B would remain because the others are covered by regulations?

MILLER Yes.

BARFIELD What is the zoning at the property just to the east that is approved for vehicle sales?

MILLER Further east it was approved as "GC" General Commercial with a Protective Overlay that limits it to vehicle sales, it is actually rental.

BARFIELD How far to the east is that?

MILLER It is 1 mile. We would not have supported that request other than the fact that it was originally a gas station before there was any countywide zoning. They did have some non-conforming use rights initially; they did let those lapse, and then they came in and asked for ag-sales and service to operate a propane sales facility and that was approved. Then at a later date, he then came in and asked if he would be able to rent vehicles from that site, and that is what took the "GC" General Commercial zoning. He is currently renting a bobcat and tractor with a backhoe. If that had not been an existing facility left over from back when, we would not have supported that.

MITCHELL There was discussion about the condition of the property immediately north of this site when this came up before, has that issue been resolved?

MILLER I know when I was out there, the property to the north has some telephone poles and some concrete culverts scattered around on it. The applicant stated at a previous hearing that is not his property, and that he is not tied to that owner. I don't know if County Code Enforcement has been involved in doing anything out there.

MCKAY The concrete is not on this piece of ground?

MILLER That is correct.

DUNLAP There are some old concrete abutments from the oil field stuff.

MILLER There are some left over oil field foundations, but the culverts and the telephone poles, at least the best I can tell by doing measurements on an aerial, they are all located north of this application area.

HERNANDEZ This 61st Street North is actually Highway 254?

MILLER Correct.

BOB KAPLAN At the request of the area property owners, we submitted this revised graphic, which is very much like a C.U.P. as well as a Protective Overlay. That was submitted to provide information on the specific uses we want to do there, and what the uses will be. That is the RV and the boat storage, the "OW" Office Warehouse, mini-storage and the auditorium. We had a fairly lengthy neighborhood meeting at the Payne Township a couple weeks ago that was reasonably attended.

That property is not going to remain agriculture. Eventually, that corridor is going to be developed and not used to grow wheat. It is very unlikely that is going to be subdivided for single-family residential looking into 254 Highway. If it is going to develop, then Mr. Marquez cannot do anything less intensive than what we have provided. If you are going to go commercial, at all, I don't know how you can do anything less than mini-storage, which is a great use and a low traffic generator. It is a very minimal commercial use. If we are going to establish a precedent then this is the precedent to establish.

I don't believe there has been any real vocal objection to the "OW" Office Warehouse, or the RV storage or the mini-storage, or the office warehouse. That does not seem to bother anybody very much. The focus has been on the auditorium. We would still like to have the auditorium. It is not a deal breaker on the plan. I had a call from County Law Department, Mr. Parancott, and he said, Bob, there is going to be no alcoholic beverages at this event center. He thinks it is not permitted under the County resolution. So for those folks that are concerned about the consumption of alcohol, because we didn't ask for any alcohol, we said we will not have any alcoholic licenses. Then the thing came up well. You could hire a caterer who could have a license to serve alcohol, and that is true. So now that is gone. So for those folks I haven't had a chance to talk to, there is not going to be any alcohol.

Staff says that we need "GC" General Commercial for the outside storage. I read the Code and read the "OW" Office Warehouse, and it looks to me from reading the Code that both "OW" Office Warehouse and "GC" General Commercial have the same condition for outside storage. I don't see in the Code how they are distinguished. So, we will go "GC" General Commercial, but the point about the "GC." In this case, the "GC" is a label. That is all that it is, because what folks are interested in is the uses that it is going to be put to, and whether it is "OW" or "GC." If this is all I can do here because of the Protective Overlay, I can't do anything but the RV and boat storage, mini-storage, and the "OW" Office Warehouse uses. Then the "GC" zoning district becomes a label only because I can't do any of the "GC" uses but I will have at least the outdoor storage. So it basically comes down to a label.

What the real problem with staff is, it is a timing issue. There has been no corridor study by the BOCC, and they have done nothing to determine what their vision is for 254 Highway. So, the thought is, until we get ready to decide what we want to see along 254 Highway, we basically just don't want anything to happen. It is essentially a moratorium. We have been waiting about two years now for the County to move forward with their corridor study, and decide what it is they want to see, and it has not happened and nobody in the County can tell you when it may happen, if it will happen, and when it will be. Meanwhile, we are getting commercial a mile to the west. The City of Bel Aire has adopted and approved acreage for an industrial park. So when you get a mile to the west at Greenwich and Webb, you have an industrial park already approved by the City of Bel Aire. When you go to the east you approved "GC" General Commercial for auto sales, and you have got the trailer sales.

All of the conditions that Dale mentioned are fine. Mr. Marquez would like to get this approved today.

HERNANDEZ What is this property being used for now?

KAPLAN It is vacant. He has been waiting to develop it, and then along came the idea that there was going to be a corridor study like they did on K-96. They are still working on that study, and haven't even thought about 254. So what he would like to do is some Office Warehouse and mini-storage, and some vehicle storage. Now, staff is telling me that if we store outdoors we will have to go to "GC" General Commercial, and if you approve "OW" Office Warehouse I will live with it. It will eliminate the outdoor storage.

HERNANDEZ He is not using it for anything right now?

KAPLAN No. But all that stuff to the north, it is not ours.

BISHOP With mini-storage many times those developments have a location for somebody to live on the property on-site, and I don't see that in this plan. I wonder if that was intended for on-site?

KAPLAN Right, there are provisions, and I am not sure in this Code, I don't know if it applies here or not for a permanent resident manager. I haven't researched that.

GOLTRY It is not applicable in this zoning district. It would be if you were zoned either "GO" or "LC".

KAPLAN I would rather not, because of the small amount of storage we have here, but obviously if it were a requirement we would have to live with it.

MCKAY Item 14 in your Protective Overlay; it is not clear what you are going to leave and what you are going to take out. Have you gone through this with the neighbors?

KAPLAN Yes, pretty much, we had the hearing and I have talked to the neighbors. Now the change since the neighborhood meeting is that I told the neighborhood "OW" Office Warehouse, and it remained "OW" until we got into that situation where staff found that provision that says we can't have the outdoor storage. So other than the "GC" General Commercial request, the answer is, yes. I mailed each of them a copy of the Protective Overlay and an 8 X 11 of the plan. So we have been very communicative in this case. But they didn't know about the "GC" General Commercial because I didn't know about that but for a few days ago.

MCKAY If you are talking "GC" over "OW," there are about twice as many permitted uses in "GC" as there is in "OW," and this is designed for "OW" Office Warehouse. What you have left out?

KAPLAN What I am saying to you is the Protective Overlay will eliminate every "GC" General Commercial use with the exception of the RV boat storage, outdoor storage. So, we are going to eliminate every "GC" General Commercial use. There is nothing that is going to change whether you approve a "GC" or and "OW." If you approve anything it isn't going to make any difference because with a Protective Overlay we are limiting it to just the "OW" uses, plus the storage and I need the "GC" if we are going to store outdoors. If you approve "OW" then we won't store outdoors. I just want have the outdoor RV storage. I will give it up and live with what you approve. But we are not looking for "GC" development, no.

WARNER Who do you for see using the assembly building?

KAPLAN Weddings, business meetings, family reunions, banquets, birthday parties. There is really not an affordable event centers. Not everybody can go to the Marriott and not everybody is a member of the country club.

LARRY GURNEY, 6669 N. 127th Street East 67226-8332 I spoke last meeting. Virtually every adjoining landowner opposes this. This is different usage of land than what is out there right now. While Mr. Kaplan suggests that it is not a big traffic generator, the part I am most concerned with is the auditorium. I think this has the potential to be a significant generator on an intersection that is not designed for a lot of traffic. There is a decel lane on the east and west on 254 Highway. In the center of the highway there are not decel or accel lanes, when you are getting onto or off 254 Highway, if you are coming from the east or going back to the west. A 6,000 square foot building, even without alcohol, still generates significant traffic, which my kids, my neighbors and I will have to drive through.

BARFIELD It is my understanding that they don't want any development out there?

GURNEY I don't represent all these people and they want this for "RR" Rural Residential, and want this to stay that way. On that point, we have seen some pictures that are north of this parcel and some inappropriate uses that are out there are supposedly home development. We were told those three parcels were bought for homesteads. Bob tells us that there will be commercial development to the west; that Bel Aire is doing that. Well if you go one more mile to the intersection of Rock and 254, somebody did develop that for residential homes and there are a lot of homes there.

PETE LAUGHLIN, 12316 E 61st N., Wichita, KS 67226 This is the third time we have met on this property. Last time we didn't know what the intended use of this property was, and that was a big concern. I think it is a presumption that it can only be developed commercial. If you go east or west from this intersection, right on the highway, they are building mini-homes right there on that highway. It is designed for "RR" Rural Residential. I did call KDOT, and spoke with Mr. Robert Cook, who is the District Engineer, and they said that they did not intend commercial uses along every corridor there, and that is why they did not put in deceleration zones at the intersection where you turn off onto a sand road, and had the setback. They tried to limit the number of turn-offs on a high-speed major highway. In reflection, I don't have a problem with the storage uses, but I have problems with the assembly hall which sounds like a church but in fact it is a party house. It is 600 feet from a 70 mph highway. I am concerned it will be so successful that the young people will rent it ever weekend and enter that highway. It is not a good corner.

KENT STANNARD, 6637 N. 127th, Wichita, KS 67226 I am opposed to commercial property being developed in the area. I am opposed to the meeting hall. The location to residential property that there is; maybe one, or two residential properties in the area. I

think we have petitions for 37 homes that are less than a mile away. We are concerned about alcohol usage; there is a 70 mph road. The other concern I would have is a City and County proposal for the proposed Furley dump area. I don't think the landowners want to see something of that nature to come up there. But, if it does, we understand 127th Street will have to be developed because it is not capable of handling large trucks. If there is a hall, and other functions held at this hall, are they going to be catered too? It is a rural area, and that is why I moved up there, and that is why I want to stay up there. The only other concern I have is when the property was bought it was sold as an 80 acre parcel, and that there were four to five individuals that bought the parcels at the same time, maybe not related, but obviously know each other. I am not sure what the zoning is for Sedgwick County. I know that Butler County has a 20-acre parcel restriction except for multi-family for a rural area. My concern would be that it is being used as a road waste dump.

ARA ANN SHARDUTY, 1350 Moss Lane, I am the owner of the adjoining 69 acres that backs up to Mr. Marquez's land and the Laughlin land. I am concerned about this. I lived on that highway for 20 years before I moved to Wichita. When we met with Mr. Kaplan at Greenwich Hall, I left with the understanding that the assembly hall was going to be taken off of this proposal. That is what the majority of the neighborhood was concerned about, so if that was our only objection they would certainly delete that, and we would all come together and be happy. I am retired now but most of these people that have been here work, and have had to take time off. No liquor license, we know they will bring it in at the assembly hall. The noise will be bad with 169 parking spaces. That is a lot of cars going into that highway. I don't think we are being told the whole story. I would like my land to go commercial but I want it to be commercial that would be worth something. We don't need another Hillbilly Paradise out there.

HERNANDEZ What is Hillbilly Paradise?

SHARDUTY Back in the 60's & 70's it was a development at the corner of 143rd & 69th Street. It was in the days of drug runners and alcohol use, and it took a long time for Sedgwick County Sheriff to get out there.

KERMIT L. ERDWIEN, 1107 Briardiff Circle, Wichita, KS 67207 We own the property across 127th Street. We had planned to build there in the future, and we have two sons who are interested in building on the property that we have. We do not feel the commercial development proposed, either the storage units or assembly hall, is really anything we want to look out our front door and see.

KAPLAN When we had the neighborhood meeting I asked about three times if the auditorium use was eliminated would that then eliminate any neighborhood opposition. Total silence was the response. Mr. Marquez said if you feel strongly about the auditorium, and that is the issue here, then we will eliminate the auditorium if that is the desire of the MAPC. So the auditorium can go on the Protective Overlay list, and there will be no auditorium.

If there is a concern about the "GC" General Commercial label, even though they are "OW" Office Warehouse uses, and you want to leave it "OW" Office Warehouse, Mr. Marquez will accept the "OW" Office Warehouse district, which means he will have no outside storage.

So if you leave me with "OW" Office Warehouse I eliminate the auditorium, and then what he has got left is three small "OW" Office Warehouse buildings and he has a small mini-storage.

GAROFALO If the request was approved as you were just suggesting eliminating the assembly hall, and just having the mini-storage how much mini-storage are you talking about?

KAPLAN There are four buildings and three of them are 2,000 square foot buildings being made into mini-storage units and a 3,000 square foot building. So there is 9,000 square feet of mini-self storage in four structures.

GAROFALO So that would remain.

KAPLAN My client would have the 4 mini-self storage buildings, with a total of 9,000 square feet. I would have (2) 7,500 square foot office warehouses, (3) suites apiece; each one would be 2,500 square feet for an office and small storage. Then I have just under 4,000 square feet in an office warehouse for his own personal use. I could have an enclosed RV and boat storage, but I couldn't have anything outdoors.

GAROFALO Then the area where the assembly building would be and the outdoor...

MILLER Based on what he is saying, we would need to amend the Parcel 2 gross floor area numbers that you see because the way that it is written today it allows almost 118,000 square feet, so it sounds like what he is doing is suggesting that we substitute the numbers that are on the drawings as the numbers under the parcel descriptions.

KAPLAN That is what we would have to do.

MILLER "OW" Office Warehouse does allow outside storage. You can't store vehicles outside but you can have material stored outside, but it is capped, as the storage area can't be any larger than the building. So in this case, if you have a 7,500 square foot warehouse they could have 7,500 square feet of outside storage. It just can't be vehicles and it has to be screened. County Law has asked me to clarify that there would be nothing illegal from a County zoning standpoint in terms of people bringing alcohol that they personally bring to the site; but if he is eliminating the auditorium then that probably takes care of that.

GAROFALO I would like to know a little more about what the neighbor's think about this sudden change here that Mr. Kaplan has proposed.

HENTZEN We have heard from the neighbors several times, and we have brought it back to the Commission, and I don't think we really need any more discussion.

MOTION: To approve the request for "OW" Office Warehouse and eliminate the assembly hall.

HENTZEN moved, **HERNANDEZ** seconded the motion.

MARNELL It is "OW" Office Warehouse on both parcels, and add under the prohibited uses "assembly building?"

HENTZEN Yes.

MARNELL Is that the correct term Dale for prohibiting that use on Parcel 1?

MILLER Auditorium is the correct term. I need a clarification then, both parcels would be restricted to "OW" Office Warehouse as they suggested with the 10 uses, now 11 prohibited uses, because you are adding auditorium. Did you want to include the recommended Condition (a) and Condition (b) on page 4 of the staff report at the bottom?

HENTZEN I don't know that anyone addressed that.

KAPLAN That is okay.

JOHNSON If there was an application made for a 6,000 square foot church on Parcel 1 what would they have to go through to do that?

MILLER In "RR" Rural Residential it would take a Conditional Use Permit.

JOHNSON I really don't see anything wrong with the whole plan. I could see at a 6,000 square foot church would have a wedding dance and somebody would carry a beer in the trunk of the car but since they have chose to remove it I will support the motion.

BISHOP I'm going to be voting against the motion. There have been a number of cases in this area that have been requested where staff has recommended denial because we have the Sedgwick County Development Guide and it has designated this for rural uses. I think it is possible to preserve agriculture land and I will consistently vote to do so.

SCHLEGEL Did the motion include the modification to the maximum gross floor area for Parcel 2 that the applicant agreed to?

HENTZEN I tried to make a motion to what the applicant agreed to.

MARNELL The Advance Plan Committee, at the present time, is revising the Land Use map. When you look at the map, as it exist today it, shows all of that as rural residential. In the areas near the growth areas of the community where you can see a designation to indicate that all of that is subject to change because it is prime developable area. I agree with Mr. Kaplan to the extent that this kind of area is going to develop, and the first one in gets the arrows, but when that new map comes back to the Commission from the Advance Plan Committee there will be significant changes.

MOTION CARRIES: 12-1 (BISHOP opposed)

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- 4a. Case No.: CUP2004-14 DP275 (Associated with ZON2004-23)** – Kenneth Rogers (owner/applicant); Reiss & Goodness Engineers c/o Robert Previtera (agent) Request Creation of The Kenny Rogers Commercial Community Unit Plan on property described as;

Beginning at a point on the west line of the northwest quarter of Section 23, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, said point being 430.63 feet south of the northwest corner of said northwest quarter; thence south on the west line of said northwest quarter on an assumed bearing of S 0 degrees 06'01" E a distance of 459.37 feet; thence N 89 degrees 53'59" E, 505.00 feet; thence N 53 degrees 52'52" E, 117.45 feet to a point 600.00 feet east of the west line of said northwest quarter; thence N 0 degrees 06'01" E, 390.21 feet; thence S 90 degrees 00'00" W parallel with the north line of said northwest quarter a distance of 600.00 feet to the point of beginning, except the west 50 feet for road. Said tract of land containing 5.72 acres.
Generally located South of 53rd Street North and east of Hillside.

and

- 4b. Case No.: ZON2004-23 (Associated with CUP2004-14 DP275)** - Kenneth Rogers (owner/applicant); Reiss & Goodness Engineers c/o Robert Previtera (agent) Request Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Beginning at a point on the west line of the northwest quarter of Section 23, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, said point being 600 feet south of the northwest corner of said northwest quarter; thence south on the west line of said northwest quarter on an assumed bearing of S 0 degrees 06'01" E a distance of 290.00 feet; thence N 89 degrees 53'59" E, 505.00 feet; thence N 53 degrees 52'52"E, 117.45 feet to a point 600.00 feet east of the west line of said northwest quarter; thence N 0 degrees 06'01" W, 219.88 feet; thence S 90 degrees 00'00" W parallel with the north line of said northwest quarter a distance of 600.00 feet to the point of beginning, except the west 50 feet for road. Generally located South of 53rd Street North and east of Hillside.

BACKGROUND: The applicant is requesting to create the Kenny Rogers Commercial Community Unit Plan on a 5.61 acre unplatted tract located on the east side of Hillside, approximately 400 feet south of 53rd Street North. The applicant is also requesting a zone change for approximately 3.5 acres of the subject property from "SF-20" Single Family to "LC" Limited Commercial. The remainder of the subject property is currently zoned "LC" Limited Commercial.

The subject property is located within the Zoning Area of Influence of Park City; however, the applicant has requested annexation to the City of Wichita in order to receive water and sewer service and because the property adjoins the Wichita city limits. Annexation of the subject property will be completed prior to the Wichita City Council considering the CUP and zone change request; therefore, the request will not be considered by the Park City planning commission.

The applicant owns additional property to the north that is zoned "LC" Limited Commercial, which if included with the subject property, would exceed the six-acre threshold for requiring submittal of a CUP. The applicant is selling the additional "LC"-zoned property to the church located on the corner of 53rd Street North and Hillside, which brings the subject property below the six-acre threshold for a CUP; however, at the suggestion of planning staff, the applicant has submitted a CUP so that the application will maintain the spirit and intent of the CUP requirements. The applicant also has submitted a plat (SUB2004-00057 Kenny Rogers Addition), which will be heard by the Subdivision Committee on May 27, 2004.

The character of the area is that of a developing urban area, but the area is predominately undeveloped at this time. The property to the north is zoned "LC" Limited Commercial and is developed with a church. The property to the east is zoned "SF-20" Single Family and is developed with the applicant's single-family residence. The properties to the south are zoned "SF-20" Single Family and are developed with single-family residences. The property to the west across Hillside is zoned "LC" Limited Commercial and "SF-5" Single Family and is developed with a high school.

The applicant proposes to develop 5.61 acres with specified uses that are permitted in the "LC" Limited Commercial zoning district. A maximum of 85,400 square feet in a maximum of five commercial buildings is proposed. A maximum building height of 35 feet is proposed. One access point to Hillside is proposed. Building setbacks of 35 feet are proposed along all property lines. Signs are proposed to be permitted per the Sign Code of the City of Wichita with additional restrictions on off-site and portable signs; window display signs; and flashing signs. Ground signs are proposed to be monument type with a maximum height of 20 feet. Landscaping is proposed per the Landscape Ordinance of the City of Wichita. A 6-8 foot high screening wall is proposed where adjacent to residential zoning.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Church
SOUTH:	"SF-20"	Single-family residences
EAST:	"SF-20"	Single-family residence
WEST:	"LC" & "SF-5"	High school

PUBLIC SERVICES: The site has access to Hillside, a two-lane arterial street. Traffic volumes on Hillside are approximately 2,300 vehicles per day and are projected to increase to approximately 7,100 vehicles per day in the 2030 Transportation Plan, which recommends Hillside remain a two-lane arterial street. As proposed, commercial development on the subject property would generate sufficient traffic in the peak hour to trigger the requirement for a traffic study to determine the necessary street improvements to handle the additional traffic generated by the subject property. The traffic study will be reviewed, and guarantees for any needed street improvements will be acquired through the platting process. Extension of water and sewer service from the City of Wichita is proposed, and guarantees for the extension of these services will be acquired through the platting process.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the Comprehensive Plan indicates that the site is appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets; in compact clusters; and have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas. The proposed commercial development conforms to the Wichita Land Use Guide and the Commercial Locational Guidelines.

RECOMMENDATION: Based on the information available prior to the public hearing, planning staff recommends the request be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2004-00023) to "LC" Limited Commercial subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP-275 Kenny Rogers Commercial CUP) subject to platting within one year and subject to the following conditions:
 1. The last sentence of General Provision #18 relating to a wall easement shall be replaced with: "The wall shall be located within the wall easement designated on the plan." A five-foot wall easement shall be shown on the plan along the south and east property lines and the 20-foot utility easement shall be shifted five feet to the north and west to account for the wall easement.
 2. Prior to publishing the ordinance establishing the zone change, the applicant shall record a document with the Register of Deeds indicating that this tract (referenced as DP-275 Kenny Rogers Commercial CUP) includes special conditions for development on this property.
 3. The applicant shall submit four 24" x 36" and one 11" x 17" revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the area is that of a developing urban area. The properties located immediately at the corner of 53rd Street North and Hillside are zoned "LC" Limited Commercial. It is common for commercial development to be located in similar locations in relation to the arterial intersection in other developing urban areas throughout the community. The request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is currently zoned "LC" Limited Commercial and "SF-20" Single-Family Residential and could be developed with uses permitted in those zoning districts. Given that some of the subject property is already zoned "LC" Limited Commercial, the proposed expansion of the area for commercial development is suitable given the property's proximity to the arterial intersection and location across an arterial street from a high school.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval, including the limitation on the proposed uses, signage restrictions, architectural control, and landscaping requirements should mitigate detrimental affects on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide in the Comprehensive Plan indicates that the site is appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets; in compact clusters; and have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas. The proposed commercial development conforms to the Wichita Land Use Guide and the Commercial Locational Guidelines.
5. Impact of the proposed development on community facilities: The applicant will be required to make street improvements and extend water and sewer service through the platting process. These improvements should mitigate any negative impacts of the proposed development on community facilities.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DUNLAP** seconded the motion, and it carried (13-0).

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5. **Case No.: ZON2004-20** – Dale R. & Jolene K. Smith Request Zone change from "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

The North 120 feet of the following tract of land described as: Beginning 660 feet East and 924 feet South of the Northwest corner of the Southwest Quarter of Section 24, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, thence East 165 feet; thence South 396 feet; thence West 165 feet; thence North to the place of beginning, except the South 2 Rods used for road and street purposes. Generally located East of West Street one block north of Douglas.

BACKGROUND: The applicant's 1.23-acre (396-foot (x) 135-foot) unplatted tract is divided by two zoning classifications. The south portion of the applicant's tract is zoned "LC" Limited Commercial. The north 120-foot (x) 135-foot of the applicant's tract is zoned TF-3" Two-family Residential. The applicant is requesting consideration for a zoning change from "TF-3" to "LC" on this north portion of the tract. The applicant's "LC" portion of the tract is mostly paved commercial parking built around an on site auto repair business (currently not operating) and a residential structure, which is used as residential rental property. The parking area serves the on site business and residential rental, plus a beautician school located east of the site, across McComas Avenue. Approximately 25-foot (x) 135-foot of the paved parking area lies in the "TF-3" zoned portion of the tract. This section of the existing parking area in the "TF-3" zoning is what has triggered the zoning change request. The zoning change request covers all of the "TF-3" zoned section of the applicant's tract, which is undeveloped except for the nonconforming parking area that was extended onto it from the "LC" portion of the applicant's tract. The applicant is not proposing to build anymore parking at this time. A parking area, commercial, is a permitted use in "GO" General Office, "NR" Neighborhood Retail, "LC" Limited Commercial, "GC" General Commercial, "CBD" Central Business District, "LI" Limited Industrial or "GI" General Industrial zoning district.

The adjacent properties to the east and north of the site are zoned "TF-3" and are developed primarily as single family residential or as duplexes. Most of these residential structures in the adjacent residential areas were built from the 1920s to 1930, with the few remaining residences built in the late 1960s to the mid 1970s. The properties to the west, across McComas Avenue, are zoned "B" Multi-family Residential and "LC". The property zoned "B" is developed as apartments and was built in the early 1970s. The "LC" zoned property has a commercial strip center on it (built in the early 1950s) and currently contains the beautician school which is using the applicant's existing parking areas in both the "LC" and "TF-3" zoned sections. Any future development of the portion of the applicant's re-zoned tract would require platting of the whole tract and would trigger landscaping, screening and any other applicable development standards, permits and inspections.

The applicant's tract is also located in a revitalization area, which is an area that has experienced some decline but still has good market and development opportunities. Physical improvements and flexibility of regulations, such as parking, is recommended by the Comprehensive Plan to create innovative and economically feasible projects in the area.

CASE HISTORY: The 0.37-acre site is part of a 1.28-acre unplatted tract.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3" Twofamily residential	Single-family residential
EAST:	"TF-3" Twofamily residential	Two-family residential
SOUTH:	"LC" Limited commercial	Unimproved commercial parking
		Single-family structure
		Convenience store
WEST:	"LC" Limited commercial	Beautician school
	"B" Multi-family residential	Apartments

PUBLIC SERVICES: Douglas is classified as an urban collector and is a paved two-lane road, at this point with room for street side parking. McComas Avenue is a paved residential street. Average Daily Trips (ADT) at the Douglas – West intersection, one block west of the site, is 22,971 ADTs north, 24,279 ADTs south, 7,452 ADTs east and 3,509 ADTs west. There are no CIP's for Douglas. There is a CIP for drainage improvement from West Street east, to be located north of the site, but in the general area. There is gas, water, sewer and electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The "Low Density Residential" category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The "Commercial" Locational Guideline of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The applicant's tract partially complies with the locational criteria in that there is access onto Douglas Avenue, but the tract also has access onto McComas, a residential street, which is not in compliance with locational criteria. The requested "LC" zoning for the commercial parking could possibly bring uses not recommended by the Comprehensive Plan into the immediate area. The Unified Zoning Code requires a zoning change from residential zoning to "GO", "NR", "LC", "GC", "CBD", "LI" or "GI" for a parking area, commercial.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED, for "GO" General Office zoning, rather than the requested "LC" zoning. The "GO" zoning would bring the nonconforming 25-foot (x) 135-foot section of the existing parking area into compliance with the UZC. The "GO" zoning district would provide a transitional zoning between the applicant's existing predominate "LC" zoning and the abutting residential zoning and development, as recommended by the "Office" Locational Guideline of the Comprehensive Plan. Because the subject site is in a revitalization area, the applicant has requested flexibility in regards to the zone change request triggering the platting requirement, thus any future development, including paving for parking, on the recommended "GO" zoning would trigger the platting of the whole unplatted tract and require landscaping, screening, lighting, access control and any other applicable development standards, permits and inspections for future development on the "GO" section of the site.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The surrounding area is zoned "TF-3", "LC" and "B". Use of the surrounding area is predominately for single-family residential, duplex residential & apartments with small stand alone or small strip retail and commercial located along Douglas Avenue. There is abutting single-family residential and duplex residential homes north and east of the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed for single-family or duplex residential use, although its proximity to existing older, small-scale commercial uses has probably made it less desirable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. The "GO" zoning district would provide a transitional zoning between the abutting single-family and duplex residential development and the existing commercial development as recommended by the "Office" Locational Guideline of the Comprehensive Plan.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows this site as appropriate for low density residential. Douglas at this location provides the access needed for the existing parking, which is all located in the existing "LC" zoned portion of the applicant's tract, except for the 25-foot (x) 135-foot encroaching into the "TF-3" zoned portion of the applicant's tract. The applicant's tract is also located in a revitalization area, which is an area that has experienced some decline but still has good market and development opportunities. Physical improvements and flexibility of regulations, such as parking, is recommended by the Comprehensive Plan to create innovative and economically feasible projects in the area. The Planning Commission has a policy of generally supporting the expansion of existing businesses and it is reasonable to assume that expansion of the existing parking is possible.
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.

BILL LONGNECKER Planning staff. The portion of the parking lot that you see in the "TF-3" area here (pointing to aerial) is what triggered the zone change request. The applicant was told that he had parking that was non-conforming to the zoning, so the applicant came in and requested "LC" Limited Commercial for not only this portion of the parking lot but the entire remaining "TF-3" zoning.

Staff recommends that the property be rezoned "GO" General Office. The "GO" General Office zoning would bring this portion of the parking that is in the "TF-3" zoning into compliance. It would provide the applicant some further development opportunities on the rest of his property and exclude the more intrusive commercial development allowed in the "LC" zoning district. The type of development allowed in the "GO" zoning will be more compatible with the existing residential abutting the site.

DALE R SMITH, 1960 Wawonna, Wichita, KS "GO" General Office will be just fine for the property as long as it conforms.

KENNETH R. CHILDRESS, 140 N MCCOMAS, WICHITA, KS 67203 which is immediately north of this property. Last year I noticed they were laying gravel in preparation for a parking lot so I called the City's numerous numbers to find out if that was acceptable because I thought the site was residential. That is why I bought my property. Several offices in the City said that the new owners were within their right to use it as parking as long as it was paved to City Standards. So they paved the site with black asphalt over what used to be grass. Within the last two weeks I received notification that they now want to change the zoning on the vacant lot next door to my house and they want to make it commercial which probably means additional paving for parking. What has happened is the current owner did get permission to pave what he paved and the City was in error and allowed him to pave 25 feet into the TF-3 zoned portion of his site. The reason for his request today is simply to get that 25 feet in compliance with the zoning regulations, however by doing so he is also changing the other 95 feet of that property into "GO" General Office. This zoning does not allow just a sweet little office building, but allows other nonresidential uses. This will leave my house vulnerable to a commercial property next door, which I totally don't want. I don't want to be next to a parking lot.

BISHOP Why is the application area the size it is rather than just where the parking lot is in order to correct that?

LONGNECKER The applicant had originally asked for "LC" Limited Commercial for the whole area, which would not only get this parking into compliance but would also bring the rest of the "TF-3" portion of his property into the same "LC" zoning that covers his southern portion of his property. Staff told him we would not recommend "LC", but would recommend "GO" which would allow commercial parking or office development at this property and bring the existing nonconforming 25-ft (x) 135-ft section of the parking on the TF-3 section into compliance.

BISHOP I'd like to ask the same question of the applicant as to why he chose the whole area to be rezoned.

SMITH I can't predict the future and our plans for now has no specific use for the property. The beauty school next door leases that parking and if their needs were to change to where they needed more parking then we would be able to provide more parking and be required to do landscaping and all the things necessary for parking. It is possible in the future that the current parking needs would be expanded.

MARNELL Did you say you lease that parcel to someone else?

SMITH I do lease a portion of the parcel. The portion of the parcel not included is the house and the yard around the house and the auto repair business and the first row of parking is assigned to the auto repair business. The rest of it is for student parking for the beauty school on the other side of McComas.

MARNELL You said you lease that north area to the beauty school, is it just the parking area or is it the entire lot?

SMITH It is everything but house and the auto building.

BISHOP What house?

SMITH Right there in the middle of property, is a four-bedroom house. Down here is an auto clinic building. The beauty school paid to pave everything, and even the front row that goes with the auto clinic. It was a request of the City because they didn't want all those students parking on the street.

MARNELL We are concerned with the area that is outlined in red, just that parcel. Do they lease that entire parcel?

SMITH Yes, they lease that entire parcel and everything else too except the house and the building on Douglas.

MARNELL Even though the parking lot is only on a portion of it.

SMITH Yes, the lease reads that whatever activates they do have to be legal, and they would have to comply with whatever requirements the City has for platting, landscaping, screening and all of those requirements, if they were to want to change what was existing.

GAROFALO How many parking spaces are in that southern part of that parcel?

SMITH This was before it was striped when they took this picture and the cars don't park that way now. That row right now, straight in parking all the way across here. That is striped per code probably 20 spaces.

SHERMAN Where is the house that he lives in?

SMITH Right there.

MCKAY I think 13-14 cars is all they can park on there?

GAROFALO You are talking about that southern portion?

MCKAY You asked the question how many spaces were on that southern piece up there; using the rule of thumb, it is 10 foot per car.

MOTION: To approve subject to staff comments and citing the findings in their report.

WARNER moved, **JOHNSON** seconded the motion.

BISHOP I have a problem rezoning the entire parcel. It does accomplish bringing the section of parking lot into compliance, and it says that the "GO" zoning district would provide a transitional zoning between the applicants existing predominate "LC" zoning and the abutting residential zoning and development. However, I think "TF-3" creates even a greater buffer and I would be able to support half of that lot but I don't think I am going to be able to support rezoning the entire parcel.

WARNER The applicant didn't ask for half the lot to be rezoned. He asked for the entire lot. We can't make that designation nor should we.

MOTION CARRIED: 12-1 **BISHOP** opposed.

JOHNSON moved, **DUNLAP** seconded the motion, and it carried (13-0).

6. **Case No.: ZON2004-26** – Jim Fouts (applicant); Baughman Company (Terry Smythe) Request Sedgwick County Zone Change from "RR" Rural Residential to "SF-20" Single-family Residential on property described as;

The South Half of the Southeast Quarter of Section 20, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. Generally located Northwest corner of Maple Street and 183rd Street West.

BACKGROUND: The application area is 76 acres of unplatted ground located at the northwest corner of 183rd Street West and Maple. The applicant is seeking "SF-20" Single-family Residential zoning to allow ½ acre lot sizes in a proposed 77-lot single-family addition known as the Elk Ridge Addition. The MA PC Subdivision Committee approved the Elk Ridge preliminary plat on April 1, 2004. The preliminary plat depicts one access point on 183rd Street, and two on Maple. The site is located diagonally across the street from the Goddard city limits, and it is anticipated the site is to be annexed by Goddard upon the completion of the zone change and plat.

All surrounding property is zoned "RR" Rural Residential, except for land located to the southeast that is within the City of Goddard. Land surrounding the application area is either agricultural or large-lot residential. The property in Goddard is vacant and appears to be a commercial site.

CASE HISTORY: The MAPC Subdivision Committee approved the Elk Ridge preliminary plat on April 1, 2004.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential"; agricultural, large-lot residential
SOUTH: "RR" Rural Residential"; large-lot residential, agricultural
EAST: "RR" Rural Residential"; agricultural
WEST: "RR" Rural Residential"; agricultural

PUBLIC SERVICES: It was stated at the Subdivision Committee meeting that the City of Goddard would provide sanitary sewer and water services. Maple is a paved two-lane road. 183rd Street is an unpaved two-lane road.

CONFORMANCE TO PLANS/POLICIES: The Goddard "Future Land Use Pattern" map depicts this site as appropriate for low-density residential uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is zoned "RR" Rural Residential, except for land located to the southeast that is within the City of Goddard. Land surrounding the application area is either agricultural or large-lot residential. The property in Goddard is vacant and appears to be a commercial site.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with minimum lot sizes of two acres, however the proposed zoning allows lot sizes as small as 20,000 square feet; and is a more appropriate zoning given the site's proximity to Goddard's city limits and Goddard's commitment to provide sewer and water services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Traffic will increase due to this development, but approval of this request should not negatively impact adjoining property owners as this site is located within an area identified by Goddard as their "growth area." The 20,000 square foot lot sizes proposed are considerably larger than the 6,000 to 8,000 square foot lots one would expect to see in a typical urban density development. Provision of public services also minimizes any identifiable detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Goddard "Future Land Use Pattern" map depicts this site as appropriate for low-density residential uses.

5. Impact of the proposed development on community facilities: Anticipated demands will be met by current or planned improvements.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DUNLAP** seconded the motion, and it carried (13-0).

7. **Case No.: ZON2004-21** – West Wichita Development Inc. (owner/applicant); Baughman Company, PA (Terry Smythe) agent Request Zone Change from “MF-29” Multi-family Residential to “GO” General Office and “LC” Limited Commercial on property described as;

LC Zoning

That part of Lot 1, Auburn Hills 7th Addition, Wichita, Sedgwick County, Kansas lying west of the following described line: Commencing at the NW corner of said Lot 1; thence N 88 degrees 59'02"E along the north line of said Lot 1, 280.00 feet for a point of beginning; thence S 00 degrees 05'53"W parallel with the west line of the NW 1/4 of Sec. 25, Twp. 27-S, R-2-W of the 6th P.M., Sedgwick County, Kansas, 435.27 feet to a point on the southeast line of said Lot 1, said point being 396.46 feet northeast of the SW corner of said Lot 1, and there ending.

GO Zoning

Lot 1, Auburn Hills 7th Addition, Wichita, Sedgwick County, Kansas EXCEPT that part of said Lot 1 lying west of the following described line: Commencing at the NW corner of said Lot 1; thence N 88 degrees 59'02"E along the north line of said Lot 1, 280.00 feet for a point of beginning; thence S 00 degrees 05'53"W parallel with the west line of the NW 1/4 of Sec. 25, Twp. 27-S, R-2-W of the 6th P.M., Sedgwick County, Kansas, 435.27 feet to a point on the southeast line of said Lot 1, said point being 396.46 feet northeast of the SW corner of said Lot 1, and there ending. Generally located South of the southeast corner of Maple and 135th Street West.

BACKGROUND: The applicant requests a zone change from “MF-29” Multi-family Residential to “LC” Limited Commercial (3.9-acres) and “GO” General Office (4.7-acres) with a Protective Overlay (PO) on the 8.6-acre Auburn Hills 7th Addition subject site. The subject site has frontage on 135th Street West and is approximately 760-feet south of the Maple Street – 135th Street West intersection, on the east side of 135th Street West. The proposed “LC” portion of the site would be located along the 135th Street West frontage and the proposed “GO” zoning would be on the site's east side abutting single-family residences.

The subject site is located west of the previously mentioned established single-family residential subdivision (Auburn Hills 3rd Addition, houses built through the mid 1990s to 2000) and south of a developing commercial center (DP-219, the Auburn Hills C.U.P.), anchored by a Dillon's, and undeveloped neighborhood retail. The undeveloped neighborhood retail has a Protective Overlay, PO#130, on it. The Auburn Hills Golf Course is located south and west, across 135th Street West, of the subject site.

This site, along with the other corners of the Maple and 135th Street intersection are covered by the Far West Side Commercial Development Policy, which intended to limit this intersection to 24-acres of nonresidential development, with no more than 12-acres of nonresidential development per corner. This policy also recommended development standards that included; signage be low, small and monument style, that there be architectural compatibility within developments and that commercial developments should be compatible with surrounding residential uses. The intersection has already exceeded the recommended 24-acres of nonresidential development, with a current total of approximately 31.41-acres of approved commercial zoning, but otherwise has established development guidelines that comply with the west side development policy. The proposed zoning change would bring the total non-residential zoned properties at the intersection up to approximately 40-acres, with approximately 25-acres of it located on this southeast corner of the intersection. The applicant's proposed PO complies with the west side development policy; in fact it almost mirrors the provisions of DP-219, the Auburn Hills C.U.P. The difference is that the proposed PO is more restrictive in the uses allowed and signage, but does not restrict the total square footage of buildings allowed on the subject site. The creation of the Far West Side Commercial Development Policy was triggered by the DP-219 application.

CASE HISTORY: The subject site was recorded as the Auburn Hills 7th Addition, February 24, 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Developing commercial, a grocery store
	“NR”	Not developed
SOUTH:	“SF-5”	Golf course
EAST:	“SF-5”	Single family residential
WEST:	“SF-5”	Golf course

PUBLIC SERVICES: The site has frontage along 135th Street West. 135th Street West is classified as a 4-lane arterial and is currently an improved arterial with four lanes and a center turn lane. Current average daily trips (ADT) are 1,620 ADTs south of the intersection; with projected traffic volumes for 2030 were estimated at 6,800 ADTs. However, it is predicted that if the northwest bypass were to be constructed, traffic volumes would more likely be in the 9,000 to 10,000 ADT range. No improvements are scheduled on the city or county capital improvements program for 135th Street West. Water and sewer and franchised utilities are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “High Density Residential” development. The proposed “LC” and “GO” zoning with the PO would prohibit retail activity involving automobile oriented businesses such as drive through and curb side restaurants, car washes, convenience stores and service

stations, plus private clubs and taverns, i.e. businesses that have the possibility of producing a lot of noise and traffic. The proposed zoning change with the PO encourages office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.

The Far West Side Commercial Development Policy, adopted by the City Council in 1996, indicates that the scale of commercial development at the intersection of Maple and 135th Street West should be limited to a total of 24 acres for all four corners and a maximum of 12 acres at any one corner. As previously stated, this intersection (and this corner) has already surpassed that recommended nonresidential zoning/development total. The Far West Side Commercial Development Policy also recommends that the appearance of commercial development should have certain characteristics in terms of signage, lighting, landscaping, shared internal access and architectural design. The proposed zone change with the PO does meet the development characteristics criteria.

RECOMMENDATION: The staff feels the zoning request for "LC" and "GO" with the PO meets the intent of the Far West Side Commercial Development Policy, with the exception of it's adding to the nonresidential acreage at the 135th Street West – Maple intersection and at this southeast corner. The total nonresidential acreage at the intersection is currently approximately 31-acres, thus exceeding the policy's recommended 24-acre total. The total nonresidential acreage at the southeast corner of the intersection is currently approximately 16.5-acres, thus exceeding the policy's recommended 12-acre total. The proposed zone change would bring the total nonresidential acreage at the intersection to approximately 40-acres and total nonresidential acreage at the southeast corner of the intersection to approximately 25-acres. The Auburn Hills Golf course will prevent any more expansion of nonresidential development at this corner of the intersection. There is one undeveloped section of property left to be developed at this intersection on its northwest corner. The approximately 10-acre "SF-5" zoned property abuts the north side of the "GO" zoned sites at this northwest corner and it is conceivable that a future zone change request could be applied for, thus increasing total nonresidential zoning at the intersection to approximately 50-acres; more than doubling the Far West Side Commercial Development Policy's recommended 24-acre total and exceeding the recommended acreage for the northwest corner. If denial of the current zone change request were considered, it would seem to be on the basis of adding to the already exceeded total nonresidential acreage at this intersection. If this current zone change request is approved it could open the possibility of the last remaining undeveloped property at the intersection applying for nonresidential zoning at some time in the future. However based on the current development patterns at the intersection, staff would probably support a future zone change, as long as it met the development standards established by current zoning and their overlay districts.

Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, with Protective Overlay #140 as presented by the applicant.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property in the neighborhood is zoned either "GO" "NR" or "LC" on the four corners of the Maple Street – 135th Street West intersection; all have either a Community Unit Plan overlay or a Protective Overlay on the non-residential zoning. Beyond the intersection, the neighborhood is predominately zoned "SF-5", with the exception of some "TF-3" two-family residential zoned property. The character of the neighborhood is that of a developed and developing suburban residential neighborhood that has displaced the prior agricultural uses of the area. These residential areas about the non-residential zoning at the intersection of Maple and 135th Street West, which is developed or developing with office, medical services and retail. The golf course is another prominent feature of the area, which in this case offers a buffer between the proposed zoning and the established residential development south of the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "MF-29" Multi-family Residential and could be developed as zoned, with all permitted residential development abutting the golf course.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residential properties in the area would be minimized by the Protective Overlay, which would address setbacks, screening, access, design, and should limit noise, lighting, and other activity from adversely impacting residential properties. The proposed PO also prohibits retail activity involving automobile oriented businesses such as drive through and curb side restaurants, car washes, convenience stores and service stations, plus private clubs and taverns, i.e. businesses that have the possibility of producing activity that typically is more disruptive to adjacent residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "High Density Residential" development. The proposed "GO" and "LC" zoning with the proposed PO would accommodate retail that would be less disruptive to adjacent residential development and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

GAROFALO ON the Protective Overlay conditions do they comply with all the codes?

BILL LONGNECKER Planning Staff Yes, the Protective Overlay basically mirrors the C.U.P. that is on the development to the north, DP-219, except that it more restrictive in the uses allowed for signage. In uses the only thing that is less restrictive is the total square footage of building allowed on the subject site. It is complimentary and in line with both the Protective Overlays and the C.U.P. on this intersection.

MOTION To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (12-0-1) **MCKAY** abstained.

❖ **TRANSPORTATION ITEMS**
Metropolitan Planning Organization (MPO)

8. Presentation on Intelligent Transportation Systems (ITS); briefing and status of projects and funding, by John Schlegel.

Mr. Schlegel provided an overview of Intelligent Transportation Systems, including the benefits and the scope of traffic flow improvements and emergency operations. The MAPD coordinates the funding and programming of nearly \$12 million in local, federal, and state funds. There are several projects underway, and planning staff assists other departments secure these funds and coordinate between the several stakeholders.

GAROFALO You mentioned the September 2004 deadline?

SCHLEGEL For obligating the three special federal grants.

GAROFALO What does that mean?

SCHLEGEL We have to tell them how we are going to use those three grants by September so we have applications to submit and they have to be approved by KDOT and USDOT by September.

DUNLAP Previously Jamsheed told us that we are right on the borderline of not meeting our Clean Air question in Wichita.

SCHLEGEL We are still below the clean air standard. Hopefully these types of systems and the use of technology to keep traffic going and reduce congestion will also keep the air clean here.

DUNLAP For about 20 years now I have been coming to this building and being told the big signs with movable copy is bad and thank your for acknowledging it is not.

GAROFALO Time frame when this will be done?

SCHLEGEL Long term at 5-10 years out. It takes a longtime. The City and County have been working a long time already.

GAROFALO You are saying there is \$12 million available now.

SCHLEGEL Correct.

GAROFALO And that is the combination of the three Federal, State, and local?

SCHLEGEL Correct.

GAROFALO More prospects of more money later.

SCHLEGEL Yes, it is a popular idea with Congress and they see it as a way of saving on other transportation funding. If you are able to reduce congestion that means that you will ask less for widening your freeways and your arterials.

GAROFALO A guess how much of how that \$12 million dollars, that how much of this that will accomplish with \$12 million?

SCHLEGEL Based on our best guess of what all this will cost the \$12 million is less then half. Depending on what we do with some of these projects, because what I was describing to you at least in two instances were undertaking needs assessments to determine exactly what needs to be done. For example, with the traffic signal systems we will do the phase one design to see what we need here in order to accomplish that and hopefully we will have a better handle on what the total cost will be for that.

HENTZEN MAPC will have a say about what is going on from time to time? Any place in there to make intelligent parking situation?

DUNLAP The MPO, so we will have some involvement sitting as the MPO, how often and how much involvement in this?

SCHLEGEL From time to time we will need to come back and let you know what we are doing. We do have clear direction from the two governing boards to move ahead with these. It is based on the memorandum of understanding. I don't know that we will need MPO approvals in expending the funds that we have so far but if we use other sources of funding.

DUNLAP I am assuming that a federal grant will have a MPO requirement regardless of a MOU between the two organizations.

MEHTA You as the MPO will approve the Regional Architecture, just as you approve the long-range transportation plan. Periodically the MPO will need to amend the ITS regional Architecture if some entity has a new idea and it is not in your plan then the MPO would amend the architecture.

BARFIELD Once you identify these project by September is there a certain time frame they have to be completed before losing the money?

SCHLEGEL Getting them obligated by September gives us a lot of flexibility when we start spending that money. What is happening that we are pushing to get those applications in is causing the local identities to want to move forward now with getting those funds spent.

MCKAY I am reading this letter from KDOT to Commissioner Marnell there are some deadline dates how are we coming along with that? Unified Work Program to be completed by June 15th.

MEHTA That State is saying lets start the preparation of the next year's work program beginning Jan 2005, and lets begin meeting in June. We will then work through with them and others in June, July, August, and by September-October it should be in your hands for final approval.

MITCHELL What is meant by Independent Project Manager for the KDOT portion of the immense traffic project management portion?

SCHLEGEL That means they don't have anyone on staff that can do it so they want to hire a consultant.

MITCHELL I gave the letter to Commissioner McKay because he is the Chair of the Advance Plan committee and we are going to have that group act as a subcommittee of the MPO to help move some of these things forward.

SCHLEGEL What is behind the motivation of KDOT in sending that letter because we aren't staffed up and we are short and we are not doing things the way they want us to do them. There is a lot that KDOT would like us to do differently. What we are trying to do is keep some local level of autonomy in how we operate as an MPO. The federal regulations are written so that MPO's exist so that there is local guidance on how the MPO operates and then how federal funds are allocated. KDOT would like to get more into our business than we have been allowing them to get into. We will mail to the MAPC members a copy of this letter.

As staff we are trying to work cooperatively with KDOT and we see this as a partnership between the federal agencies and KDOT, which become the channel by which the federal dollars flow into the state and are distributed to the various jurisdictions within the state. KDOT would like to be more directing and us following rather than it being a partnership of equals.

MITCHELL The next meeting of Advanced Plans will be June 2nd at 7:30 a.m.

MARNELL Commissioner Sherman and Commissioner Warner appointed to Subdivision Committee.

The Metropolitan Area Planning Department informally adjourned at 4:23 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)